

REMARKS

Claims 2-8 are pending in this application.

The examiner rejected claims 2-8 under 35 USC § 101 for claiming the same invention as that of claims 1-7 of U.S. Patent No. 6,582,962 ("the '962 patent"). The examiner's rejection is unfounded. As demonstrated in the table below, claim 2 of the present invention is directed to annealing "at least one oligonucleotide primer" while claim 1 of the '962 patent is directed to annealing "at least two oligonucleotide primers."

Claim 2 Of Present Application	Claim 1 Of U.S. Patent No. 6,589,962
In an apparatus for analyzing biological materials comprising a plurality of heating devices supported by a heating device support, each heating device adapted to receive a slide and including a heater and a sensor, and control electronics in communication with the heating devices for receiving data from the sensors of the heating devices and for individually controlling the heaters of each of the heating devices, a method for amplifying a target molecule within tissue samples mounted on slides received by the heating devices comprising the steps of:	1. In an apparatus for analyzing biological materials comprising a plurality of heating devices supported by a heating device support, each heating device adapted to receive a slide and including a heater and a sensor, and control electronics in communication with the heating devices for receiving data from the sensors of the heating devices and for individually controlling the heaters of each of the heating devices, a method for amplifying a target molecule within tissue samples mounted on slides received by the heating devices comprising the steps of:
denaturing target molecules in the tissue sample by independently controlling the temperature of the heaters;	denaturing target molecules in the tissue sample by independently controlling the temperature of the heaters;
annealing at least one oligonucleotide primer to the target molecules by independently controlling the temperature of the heaters;	annealing at least two oligonucleotide primers to the target molecules by independently controlling the temperature of the heaters;
performing polymerase-mediated extension on the annealed oligonucleotide primer-target molecules by independently controlling the temperature of the heaters; and	performing polymerase-mediated extension on the annealed oligonucleotide primer-target molecules by independently controlling the temperature of the heaters; and
repeating the steps of denaturing, annealing and performing polymerase-mediated extension at least one time.	repeating the steps of denaturing, annealing and performing polymerase-mediated extension at least one time.

Clearly, claim 2 of the present invention includes an embodiment (a step of annealing only one oligonucleotide) that is not covered by claim 1 of the '962 patent. For this reason, claim 2 of the

present invention fails the statutory double patenting tests set forth in MPEP §804(II) (A) and the examiner's 101 double patent rejection should be withdrawn.

Favorable reconsideration and allowance of pending application claims 2-7 is, therefore, courteously solicited.

Respectfully submitted,

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